

or later if NASA has not initiated the procedures, then NASA shall, within 60 days after it receives the comment, either initiate the procedures or notify the waiver recipient, in writing, that it will not pursue march-in rights on the basis of the available information.

(c) If march-in procedures are to be initiated, the Administrator of NASA, or designee, shall undertake or refer the matter for fact finding to the NASA Board of Contract Appeals (BCA) and its Chairperson.

(d) Fact-finding shall be conducted by the NASA BCA and its Chairperson in accordance with its procedures that are consistent with the procedures set forth in 37 CFR 401.6. Any portion of the march-in proceeding, including a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the waiver recipient, its assignee, or licensees shall be closed to the public, including potential licensees. In accordance with 35 U.S.C. 202(c)(5), NASA shall not disclose any such information obtained during a march-in proceeding to persons outside the Government except when such release is authorized by the waiver recipient (assignee or licensee).

(e) The preparation of written findings of fact and recommended determination by the Chairperson of the NASA BCA and the determination by the Administrator, or designee, of NASA shall be in accordance with 37 CFR 401.6.

(f) NASA may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

§ 1245.118 Record of decisions.

The findings of fact and recommendations made to the Administrator by the Board with respect to each petition for waiver shall be recorded by the Board and be available to the public.

Subpart 2 [Reserved]

Subpart 3—NASA Foreign Patent Program

AUTHORITY: 42 U.S.C. 2457(h) and Executive Orders 9865 and 10096.

SOURCE: 30 FR 1844, Feb. 10, 1965, unless otherwise noted.

§ 1245.300 Scope of subpart.

This subpart establishes policy, criteria, and procedures concerning the NASA Foreign Patent Program.

§ 1245.301 Inventions under NASA contracts.

(a) Pursuant to § 1245.113, NASA has facilitated the filing of foreign patent applications by contractors by providing for the granting of a waiver of title to a contractor to any identified invention in countries other than the United States in the event the Administrator of NASA does not desire to file a patent application covering the invention in such countries. However, any such waiver is subject to the reservation by the Administrator of the license required to be retained by NASA under section 305(f) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(f)).

(b) Conversely, where the principal rights in an invention made under a NASA contract remain in the contractor by virtue of waiver, § 1245.19(a)(5) provides that the contractor, upon written request, will convey to the Administrator of NASA the entire right, title, and interest in the invention in any foreign country in which the contractor has elected not to file a patent application.

(c) With respect to inventions in which NASA has acquired and retained the principal rights, NASA will file patent applications in countries other than the United States on inventions selected in accordance with the criteria set forth in § 1245.303.

§ 1245.302 Inventions by NASA employees.

(a) The foreign rights of NASA and of the NASA employee making an invention are determinable in accordance with Executive Orders 9865 and 10096